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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,392	10/07/2003	Tsutomu Tanaka	D-1494	5457

7590 08/20/2004

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,392

Applicant(s)

TANAKA, TSUTOMU

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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This is the second office action for application number 10/679,392, Hook Device, filed on October 7, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

Claim 1 is objected to because of the following informalities:

In line 10, "one said" should be --one of said--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It appears a substantial section of claim 7 is basically repeated subject matter from claim 1 ("when the main hook portion further opens, the stopping portion further engages the engaging portion" from claim 1 and "when the load is applied to further open the hook main portion in the use position, the elastic member is moved toward the

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stopping portion to surely engage therewith" from claim 7). Hence, it appears such subject matter has been doubly included.

Regarding claim 9, it is not understood how the stopping and engaging portions could have the same inwardly inclined surfaces. How could two surfaces be the same surface? This just does not make sense. It appears the applicant meant to recite that the stopping and engaging portions have --complimentary inwardly inclined surfaces--, or --similar inwardly inclined surfaces--. However, because of the ambiguity, for the purposes of this office action the Examiner will not attempt to apply art.

Claim Rejections - 35 USC § 102

Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent number 6,705,579 to Yamada.

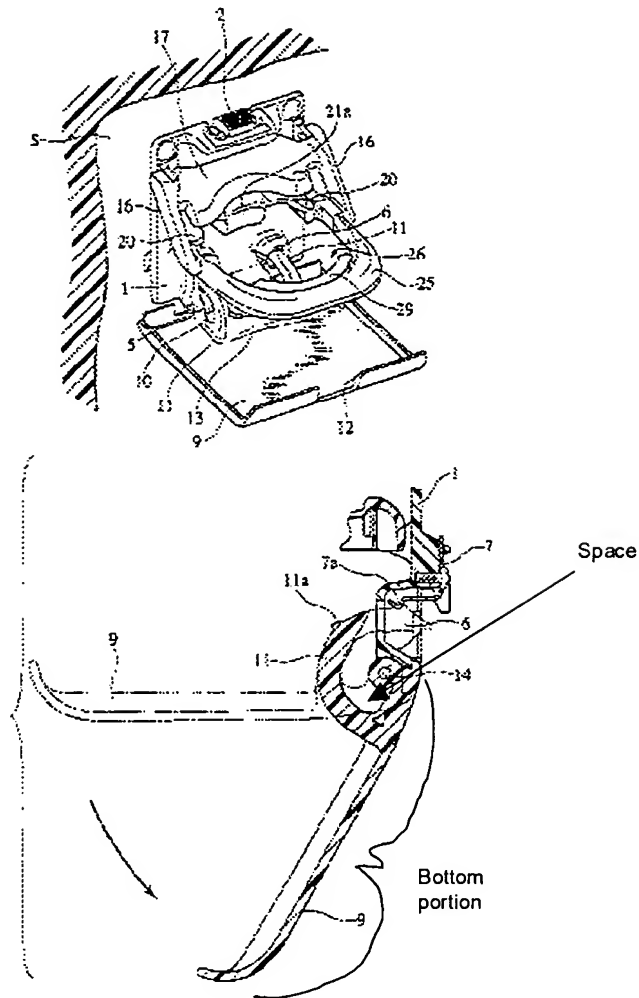


FIG.8A

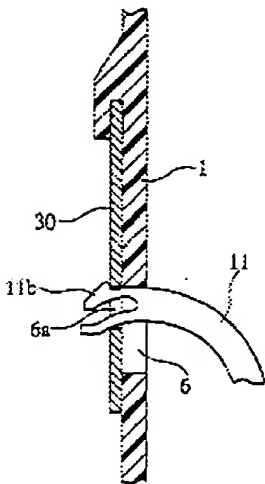
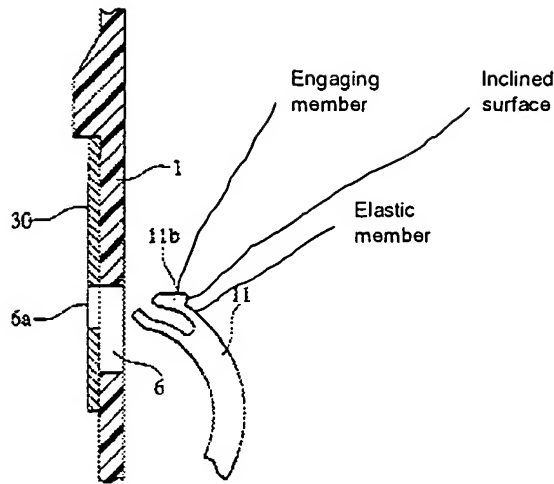


FIG.8B



Yamada '579 discloses a hook device (above, including embodiment of figures 8A,8B) comprising a case member (1) having a stopping portion (30,6a), a hook main portion (9, generally, a "hook" is defined in Merriam Webster's Collegiate Dictionary - 10th Edition as being "a curved or bent device for... holding," so clearly, member 9 is considered a "hook main portion") disposed in the case member (members 11 go through the case, so the hook main portion is considered "in" the case member) to be rotatable between store and use positions and having an elastic member (above), and an engaging portion (above) attached to the elastic member of the hook main portion to engage the stopping portion so that the hook main portion is stopped at a use position (as in figure 3) with a predetermined open angle, wherein at least one of the stopping and engaging portion has an inclined surface (above) so that the elastic member elastically deforms in a direction that the stopping portion further engages the engaging

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portion when a load is applied to the hook main portion in a direction that the hook main portion opens (this inherently happens with reference to figure 8A above), wherein the device includes urging means (15) attached to the case member (see figure 6, 14 is considered part of the case member) for urging the hook main portion in a direction that the hook main portion opens, and a latch mechanism (2,12) for holding the hook main portion at a predetermined store position (as in figure 6) against an urging force of the urging means, wherein the stopping portion is located at a rear side of the of the case member (see figure 8A,8B above) and the hook main portion has a bottom portion (above) from which the elastic member projects rearwardly and upwardly, wherein the hook main portion has a space (above) between the bottom portion and the elastic member so that the elastic member is deformable toward the bottom portion (inherently); wherein the elastic member is flexible and arranged such that when the load is applied to further open the hook main portion in the use position, the elastic member is moved toward the stopping portion to surely engage therewith (see figure 8A), wherein the engaging portion has an inwardly inclined surface relative to a radial line extending from a rotational axis of the hook main portion (with reference to figure 8B, the inclined surface is inclined inwardly relative to a radial line extending from a rotational axis of the hook main portion).

Response to Arguments

Applicant's arguments filed August 5, 2004 have been fully considered but they are not persuasive.

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In the middle of the first full paragraph of page 6 of the remarks, the applicant contends that the “forked ends 11b are formed to pass through the hole 6a, i.e. disengage from the base plate 1. In this connection, the inclined surface of the invention is not disclosed in Yamada.” The Examiner disagrees.

With reference to figure 8A, the engaging member and the stopping member are certainly further engaging each other, and clearly, this occurs when a load is applied to the hook main portion (figure 8A is a view of the “expanded” position, and the “expanded position” also as shown in figure 3 is meant to accommodate a load, such as a cup). Therefore, there is in fact a load in which the engagement of the engaging portion and the stopping portion prevents further opening of the main hook portion.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
August 17, 2004



ANITA KING
PRIMARY EXAMINER